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Appl. No. 10/643,681

Docket No.: 254/057CON

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REMARKS

Claims 24-30 and 38-59 are pending in this application. Claims 24 and 38-40 were rejected under 35 U.S.C. §102(b). Claims 25-30 and 41-59 were objected to.

By this amendment, claim 24 has been amended without prejudice or disclaimer of any previously claimed subject matter. Support for the amendment can be found, *inter alia*, throughout the specification and the claims as originally filed. For example, support for the amendment can be found at page 22, lines 6-12, of the original specification and at page 13, lines 15-19, of the substitute specification. Applicants respectfully request entry of this amendment under 37 C.F.R. §1.116(b).

The amendment is made solely to promote prosecution without prejudice or disclaimer of any previously claimed subject matter. With respect to all amendments and cancelled claims, Applicants have not dedicated or abandoned any unclaimed subject matter and moreover, have not acquiesced to any rejections or objections made by the Patent Office. Applicants expressly reserve the right to pursue prosecution of any presently excluded subject matter or claim embodiments in one or more future continuation and/or divisional application(s).

Applicants have carefully considered the points raised in the Office Action and believe that the Examiner's concerns have been addressed as described herein, thereby placing this case into condition for allowance.

Rejections under 35 U.S.C. §102

Claims 24 and 38-40 were rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Pat. No. 4,451,394 (hereinafter "the '394 patent"). Applicants respectfully traverse this rejection.

The '394 patent describes dodecapeptides of a particular formula and use of the same in treating patients with diabetes mellitus and excessive growth hormone secretion. The Examiner asserts that the dodecapeptide of the '394 patent "reads on an amylin agonist analogue according to the definition recited in the instant specification." Office Action, page 5. Applicants respectfully disagree with this assertion.

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As amended, the claimed invention is directed to a method of reducing or moderating a postprandial rise in plasma glucose in a mammal comprising administering an amylin or an amylin agonist analogue to the mammal, where the amylin agonist analogue is a peptide and binds to an amylin receptor.

The '394 patent is silent with regard to amylin, amylin analogs and amylin receptors. The '394 patent does not teach or suggest that the dodecapeptides described therein bind to an amylin receptor. Thus, the '394 patent does not describe amylin agonist analogues as claimed and does not teach the claimed invention.

To serve as a reference under 35 U.S.C. §102(b), a reference must disclose every element of the claim. Since the '394 patent does not disclose every claim element, it cannot serve to bar patentability under 35 U.S.C. §102(b).

Thus, Applicants respectfully submit that the cited reference does not anticipate the claimed invention.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejections under 35 U.S.C. §102.

Objection

Claims 25-30 and 41-59 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. As discussed herein, Applicants respectfully submit that the base claim 24 is patentable. Accordingly, claims 25-30 and 41-59 are in condition for allowance.

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CONCLUSION

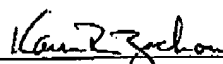
Applicants believe that all issues raised in the Office Action have been properly addressed in this response. Accordingly, reconsideration and allowance of the pending claims is respectfully requested. If the Examiner feels that a telephone interview would serve to facilitate resolution of any outstanding issues, the Examiner is encouraged to contact Applicants' representative at the telephone number below.

No additional fees are believed due for this submission. However, if a fee is due, the Commissioner is hereby authorized to charge payment of any fees associated with this communication, to Applicant's Deposit Account No. 010535 referencing Docket No. 254/057CON. Additionally, the Commissioner is hereby authorized to charge payment or credit overpayment of any fees during the pendency of this application to Applicant's Deposit Account No. 010535.

Date: 23 March 2007

Respectfully submitted,

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